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IN THE UNITED STATES DISTRICT COURT IN AND FOR  
THE DISTRICT OF UTAH, CENTRAL DIVISION

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JEFFREY BRUENINGSEN, ALDIS  
BARSKETIS, STEVE SIMCHEN, RICHARD  
SORENSEN, THOMAS H. STEED, JR., JOE  
METCALFE and MICHAEL POWER, on  
behalf of themselves and other similarly  
situated,

Plaintiffs,

v.

RESORT EXPRESS INC.,

Defendant.

**JOINT MOTION FOR FINAL  
APPROVAL OF SETTLEMENT**

Case No. 2:12-cv-00843-DN

Judge David Nuffer

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Plaintiffs and defendant Resort Express, Inc. (“Resort Express”) (collectively the “Parties”), through counsel, respectfully submit this Joint Motion for Final Approval of Settlement Agreement.

Plaintiffs were formerly employed as drivers for Defendant Resort Express, Inc. (“Resort Express”). Plaintiffs filed this collective action under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 216(b), alleging claims for: (1) failure to pay minimum wage (the “Minimum Wage Claims”); (2) failure to pay overtime pay (the “Overtime Claims”); (3) unlawful retention of non-

cash tips (the “Tip Claims”); (4) conversion; (5) unjust enrichment; and (6) quantum meruit (the claims for conversion, unjust enrichment and quantum meruit are collectively referred to as the “State Law Claims”). *See* First Amended Complaint, Docket No. 12, Nov. 11, 2012. Pursuant to a stipulation by the parties, this Court conditionally certified Plaintiffs’ claims for alleged violations of the FLSA as a collective action. *See* Order Regarding Plaintiffs’ Motion for Order Permitting Plaintiffs to Proceed as a Collective Action and Facilitate Notice, Docket No. 25, Feb. 22, 2013.

On October 22, 2013, Defendants filed a Motion for Partial Summary Judgment on all of Plaintiffs’ claims except for the Minimum Wage Claims and the Overtime Claims with respect to one plaintiff, Michael Power. On January 26, 2015, the Court granted Defendants’ motion for partial summary judgment on the Tips Claims, the Overtime Claims and the State Law Claims. *See* Memorandum Decision and Order Granting Motion for Partial Summary Judgment, Docket No. 64. Thereafter, Defendant propounded written discovery concerning the remaining Minimum Wage Claims and took depositions of plaintiffs Brueningsen, Simchen, Steed, and Metcalfe. Plaintiffs also conducted written discovery concerning the Minimum Wage Claims. Defendant produced over 72,000 documents in discovery, primarily consisting of driver wage records and manifests.

Thereafter, counsel for the parties negotiated a settlement of the amount allegedly owed to Plaintiffs in connection with the Minimum Wage Claims. A Notice containing the particulars of the settlement was submitted with the parties’ Joint Motion for Preliminary Approval of Settlement (the “Notice”). *See* Docket No. 96-3. The Court entered an order granting preliminary approval of the settlement on May 23, 2016 (the “Order”). *See* Docket No. 97. Pursuant to the

Order, counsel for the Plaintiffs mailed the Notice to all Plaintiffs. Neither Plaintiffs' counsel nor the Court have received any objections or other responses to the terms of the settlement provided in the Notice. Thus, the parties, through counsel, respectfully request that the Court grant final approval of the settlement.

A portion of the amount to be paid pursuant to the settlement, \$31,547.86, is for attorneys' fees. Counsel agree that this amount is fair and reasonable, particularly in light of the fact that Plaintiffs' counsel spent a total of 293.10 hours working on the Minimum Wage Claims and incurred a total of \$56,811.50 in attorneys' fees. A detailed breakdown of this amount is attached as Exhibit A.

Pursuant to the settlement, special awards will be provided to the named plaintiffs. Brueningsen and Barsketis are the two named Plaintiffs who performed the vast majority of the work in this case on behalf of the Plaintiffs. They will each receive \$2,000. Simchen, Sorensen, Steed, Metcalfe and Power are the other named Plaintiffs and they performed some work in this case on behalf of the Plaintiffs, including participating in preparing written discovery responses and/or appearing for depositions. They will each receive \$500. Counsel agree that these special awards are reasonable and appropriately compensate the named Plaintiffs for the additional work they performed.

### **CONCLUSION**

Based on the foregoing, the Parties, through counsel, respectfully request that the Court grant final approval on the settlement that disposes of the Minimum Wage Claims in this case.

DATED this 2nd day of September, 2016.

WRONA GORDON & DUBOIS, P.C.

/s/ Joseph M. Stultz

Joseph M. Stultz

*Attorneys for Plaintiffs*

RAY QUINNEY & NEBEKER P.C.

/s/ Scott A. Hagen

(Signed with Permission)

Scott A. Hagen

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I certify that on the 2nd day of September, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notification of the filing to the following:

Scott A. Hagen  
Liesel B. Stevens  
RAY QUINNEY & NEBEKER, P.C.

/s/ Joseph M. Stultz